IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO: 12547 of 2004

Between:

K.C.P. Sugars and Industries Corporation Ltd, Vuyyuru - 521 165, Krishna District, rep. by its General Manager.

..... PETITIONER

AND

1 The Assistant Commissioner of Labour, Vijayawada.
2 Kolipara Subba Rao, S/o Mallikarjuna Rao, Tandanki (V), Parmidimukkala (M). Krishna District.
3 The VSF Cooperative Stores Ltd, Vuyyuru, Krishna District, Rep. by its President.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction one in the nature of writ of mandamus i) declaring the impugned order in APSE Case No. 37/98 dt.30-11-2001 of the Respondent No.1 as arbitrary, illegal without jurisdiction and the same may be quashed; ii) costs be awarded to the petitioner; and pass such other order or orders appropriate in the circumstances of the case.

Counsel for the Petitioner: MR.B.MAHENDER REDDY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent Nos.2 & 3: SMT. B.MALLESHWARI

The Court at the stage of admission made the following:

HONOURABLE DR. JUSTICE G.YETHIRAJULU

WRIT PETITION NO.12547 OF 2004

ORDER:

The petitioner is the Sugar Factory represented by its General Manager. The second respondent worked under the third respondent Co-operative Stores. When the second respondent was retrenched through the order dated 30-03-1998, he filed an appeal before the first respondent questioning the order of the third respondent. In the said appeal the second respondent impleaded the petitioner as a party to the said appeal in his capacity as the General Manager by virtue of his status as an ex-officio President of the third respondent Co-operative Stores. Though the petitioner brought to the notice of the first respondent that he is not a necessary and proper party, the first respondent did not consider the said fact and passed the impugned order on 30-11-2001 directing the petitioner and the third respondent for reinstatement of the petitioner with back wages and continuity of service.

2. The petitioner being aggrieved by the said order approached this Court through this writ petition seeking to declare that the order of the first respondent dated 30-11-2001 against the petitioner, as arbitrary, illegal and without jurisdiction and requested to quash the same.

3. The learned counsel for the petitioner represented that the petitioner is not disputing the claim of the second respondent, but his only grievance is that the order should have been passed by the first respondent against the third respondent, instead of passing the order against the petitioner in his capacity as a General Manager of the Sugar Factory. The third respondent is not coming forward to question the order of the first respondent. The first respondent might be under the impression that since the petitioner is an ex-officio President of the third respondent-Stores, he is liable to implement the order in his capacity as the General Manager of the Sugar Factory.

4. Since there is a direction given by the first respondent to reinstate the second respondent with all consequential benefits, it would be appropriate, if the direction given by the first respondent is confined to the third respondent

only, and the third respondent shall take necessary steps to implement the order of the first respondent, unless the said order is otherwise kept in abeyance or stayed by the competent authority.

5. The Writ Petition is accordingly disposed of. No order as to costs.

Dr. G.YETHIRAJULU, J

09th September, 2004

SKM

TO

1 The Assistant Commissioner of Labour, Vijayawada.
2 The President, VSF Cooperative Stores Ltd, Vuyyuru, Krishna District,
3 Two C.Cs. to G.P. for Labour, High Court Buildings,

High Court of A.P., Hyderabad. (OUT)

4 Two C.D. Copies.